

IN THE GRAND COURT OF THE CAYMAN ISLANDS
HOLDEN AT GEORGE TOWN, GRAND CAYMAN
CAUSE NO: 60216/2015

In the matter of the Immigration Law (2009 Revision), (the "Law"), section 17 (2).

And in the matter of the dismissal of an Application for Permanent Residency of Glendon Fredrick Locke pursuant to the Law, section 29, by at decision of the Immigration Appeals Tribunal made by letter dated 29 April 2015.

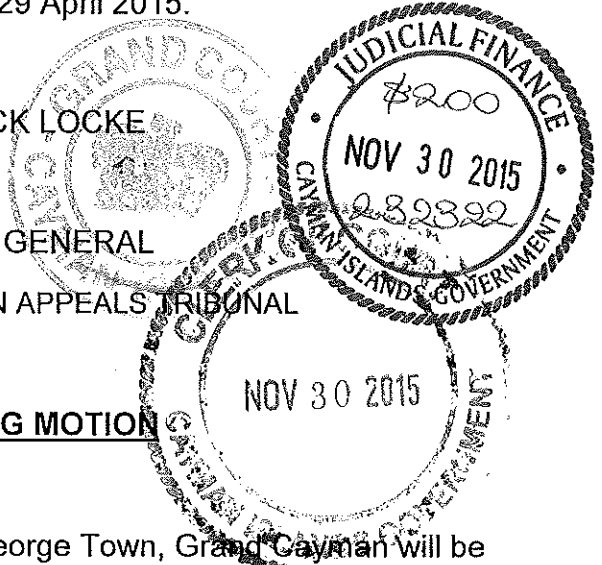
BETWEEN: GLENDON FREDRICK LOCKE
AND
1. THE ATTORNEY GENERAL
2. THE IMMIGRATION APPEALS TRIBUNAL

NOTICE OF ORIGINATING MOTION

29th March, 2016

TAKE NOTICE that the Court at the Law Courts, George Town, Grand Cayman will be moved on 2015 at *9:30 a.m.* or as soon thereafter as counsel can be heard, by counsel on behalf of Glendon Fredrick Locke for the following relief, namely

1. That until such time as the substantive matter is heard and determined by the Court the Applicant shall be permitted to stay and work in the Cayman Islands.
2. Leave of this Honorable Court to exercise its discretion to permit an extension of time pursuant to GCR Ord 3 r. 5 for the applicant to lodge a Notice of Motion if the Court considers that the time for lodging the application has expired.
3. Alternatively, that this Application stand a Notice of Motion for an application that the decision to refuse to Grant Glendon Fredrick Locke permanent residency is unreasonable, erroneous and at variance with the Regulations.
4. The factual background is as follows:
 - i. The Appellants application to the Cayman Status and Permanent Residency Board ("the Board") was made on 16 January 2007 and was heard and refused on the 5 February 2009 on the grounds that the Appellant received a total score under the point system of 86 (and thus did not receive the 100 points necessary under section 30 (1) of the



Immigration Law (2007 Revision) ("the Law") as per the Boards letter of refusal dated 5 February 2009. An appeal was filed to the Immigration Tribunal (IAT) 9 March 2009 and as per the Tribunal letter dated 29 April 2015 the appeal was refused.

- ii. Under paragraph 4 of the second Schedule of the Immigration Regulations (2009) Revision (the "Regulations") the Appellant was entitled to 30 points for his investment in a locally licensed company "G & F Autobody Works Ltd".
- iii. The Appellant has since received the Confidential Cayman Status and Permanent Residency Board (the "Board") Appeal Statement which was submitted to the Immigration Appeals Tribunal ("IAT") on 18 November 2009 wherein it will be noted at paragraph 4 **"FINANCIAL ASSESSMENT: The appellant was not awarded any points under this category as he did not provide evidence of any investment in property in the Islands or in a local company. Therefore, he was not eligible for points under this category"**.
- iv. The applicant was not permitted under the Immigration Law (2009R) at 16 (9) the right, in short, to attend the hearing with or without a representative. If he was permitted what is not only a statutory right but a fundamental right to be heard and thus a fair hearing he could have addressed the issue of the absence of the supporting documents. The fact that he has invested in a local licensed company is not made less that there was no evidence before the IAT to support it and the fact that he was not given the opportunity to provide proof of the documents, even though it was communicated to the Board several times by the applicant's attorney that they seek to have an hearing. According to Bodden & Bodden letter dated 9 March 2009 and 19 February 2010, additional information was provided to the Board and their request for a hearing was noted. The applicant nor his representative was given the opportunity to a hearing even though as per the Board letter dated 22 January 2010 promised to communicate date and time of hearing to the applicant or his representative.
- v. Given the passage of time, much has happened in the life of the Applicant. This is an application submitted in 2007 which has finally been determined in 2015. This delay in the resolution of this application has caused the Applicant prejudice but that prejudice has been compounded by the IAT knowing that there was a basis for a grant of points but insufficient evidence to support that fact. Just as the Applicant is duty bound to make full and frank disclosure of information to support his application and thus

update the tribunal of any changes in his circumstances whether they are in his interest or not the IAT is equally duty bound as a matter of fairness to ensure that the correct information is before it, especially before it render a decision where there is a clear evidence that supporting documents/information is missing.

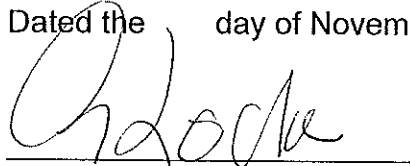
- vi. The Applicant should not be cloaked with any error or failure of his representative if it is said that there was a failure to provide the relevant evidence especially in a matter such as this where he clearly sought and had legal representation. This information should have been provided by his attorney. The applicant was not permitted to attend the hearing where such error on the part of the tribunal could have been corrected in short order. The Applicant has not therefore been treated judiciously and has not had a fair hearing.

AND FURTHER TAKE NOTICE that the grounds of this appeal are:

5. In light of the above, the Grounds for the Application for the Appeal of the Decision to refuse to grant Permanent Residency or to Reconsider the decision to dismiss are pursuant to section 15 (2) (a)(b)(c) and (d).
6. Alternatively, the Board having not awarded any points as seen on the point System-Permanent Residence Assessment document for property and investment. The Applicant should have been awarded 30 points in this category.
7. Alternatively, the requisite statute being silent on the issue of reconsideration, failed as a matter of law to properly exercise its discretion either administratively or as a matter of common law to reconsider the application where it was clear on its face that there was an issue.
8. Alternatively, the Tribunal acted in a way that no reasonable tribunal would have acted in the circumstances.

And for an order that the costs of and incidental to this appeal may be paid by the Immigration Appeals Tribunal.

Dated the day of November 2015



Signature of Appellant

TO: The Clerk of the Court.

AND TO: The Respondent: c/o Legal Department.

This Notice of Motion was filed by the Applicant whose address for services is P.O. Box 1661 KY1-1504, 95 Godfrey Nixon Way, Suite 13, George Town, Grand Cayman, Cayman Islands, services.concierge@yahoo.com.